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Order Instituting Rulemaking Concerning Energy Efficiency Rolling Portfolios, Policies, Programs, Evaluation, and Related Issues	Rulemaking 13-11-005 (Filed November 14, 2013)

NATURAL RESOURCES DEFENSE COUNCIL (NRDC) OPENING COMMENTS ON THE PROPOSED "DECISION PROVIDING GUIDANCE FOR INITIAL ENERGY EFFICIENCY ROLLING PORTFOLIO BUSINESS PLAN FILINGS"

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I. Introduction

Pursuant to Rules 1.9, 1.10, and 14.3 of the California Public Utilities Commission's (Commission or CPUC) Rules of Practice and Procedure, the Natural Resources Defense Council (NRDC) submits the following opening comments on the "Decision Providing Guidance for Initial Energy Efficiency Rolling Portfolio Business Plan Filings," July 19, 2016 (PD or Proposed Decision). NRDC is a non-profit membership organization with more than 70,000 California members who have an interest in receiving affordable energy services while reducing the environmental impact of California's energy use.

II. Discussion

NRDC supports the recommendations in the PD to address various outstanding items at collaborative forums. The informal work done in these forums, such as the California Energy Efficiency Coordinating Committee (CAEECC) and the California Technical Forum (CalTF), is intended to resolve issues through conversation and negotiation in order to minimize the differing views that ultimately need to be resolved by the Commission. This would increase understanding of party positions, reduce the items that need to be adjudicated, and streamline the process moving forward.

NRDC proposes the following modifications to the PD:

- Keep codes and standards advocacy credit, potential, and goals in full for new construction and standards. Remove only those savings associated with programs allowed to count below code from codes and standards retrofit advocacy.
- Allow stakeholders to participate in EM&V project coordination groups and other similar meetings to help inform evaluation approaches, beyond the quarterly stakeholder meetings and webinars on draft study plans and near final evaluations.

- Ensure any new RENs/CCAs go through the CAEECC process before filing business plans per D.15-10-028, similar to all current Program Administrators.

A. The Commission should modify the proposed codes and standards policy to only eliminate advocacy credit for savings associated with programs that are allowed to count below code savings.

NRDC agrees with the Commission that we should not be "counting savings associated with advocacy work while also counting the savings as having been achieved through programs using an existing conditions baseline."[1] However, the solution proposed to address this problem is far more extreme than the potential problem itself. NRDC strongly urges the Commission to modify the codes and standards (C&S) advocacy position to ensure sufficient motivation and attainment of the most cost-effective energy savings both to keep bills low and to meet the state's 2030 energy goals. Specifically, we recommend:

- Remove savings associated only with the identified retrofit programs that can count below code savings from the C&S advocacy credit, potential, and goals.
- Allow codes and standards advocacy credit, potential, and goals for new construction and standards (e.g., white goods, battery chargers, electronics, etc.).
- Work with the CEC to improve data collection and undergo a review of the C&S attribution methodology to improve the approach to estimating retrofit credit.
- Encourage code readiness programs to help reduce the potential gap between expected code savings and actual savings moving forward.

Before discussing each proposal in turn, we want to reiterate the importance of the investor-owned utilities' (IOU) role in researching, promoting, and moving markets towards increased codes and standards adoption. NRDC's Center for Energy Efficiency Standards program works closely with the California Energy Commissions (CEC) and the utilities to identify opportunities for potential codes and standards. One of the utilities' most critical roles is providing the key technical analysis needed for the CEC codes and standards rulemakings.

In addition, these savings are *the most cost-effective* energy savings in the portfolio, accounting for just above two percent of expenditures needed to reach a substantial portion of the overall energy saving goals.[2] Third, advancing codes and standards is a key component of

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[1] PD, p.28

[2] CAEECC Codes and Standards (C&S) subcommittee meeting presentation, Stage 2, Slide 3, May 4, 2016. In 2016, 2.2% of portfolio expenditures are allocated to the statewide C&S program, with savings accounting for 29% of the gas goal, 46% of the electricity goal, and 51% of the demand goal. Accessed August 4, 2016 at http://media.wix.com/ugd/0c9650_7b6b1a4581114c73b658ca50b37ba625.pdf

energy savings moving forward that are needed to comply with the goal of doubling energy efficiency put forth by SB 350.

Without sufficient motivation for the utilities, their efforts to promote codes and standards will not continue to be a high priority, thereby undermining California's progress on codes and standards, increasing the cost of energy efficiency programs and customer bills, and reducing our ability to meet the state's climate goals.

1. *The immediate potential for double counting is low*

At this time, the potential for double counting and adverse impact on the demand forecast or procurement planning is extremely limited for a number of reasons. First, the Proposed Decision only allows a few types of programs to count below code savings (e.g., pay for performance programs, programs with randomized control trial, and shell & building system add-on equipment).[3] This means the only real area where there might be double-counting is with these programs. Not only does this immediately cut out a substantial amount of potential for double counting, it also provides for a clear and targeted strategy to avoid such double counting. In addition, these programs are just launching and will likely compose only a small fraction of the overall portfolio as compared to the programs that are ineligible for below code savings, at least in the near term.

Furthermore, for those programs that are eligible for below code savings, there will still be ex-post net-to-gross reductions. Since the net-to-gross methodology takes into account what would have happened anyway, including through code, the reduction in savings estimates would also minimize the potential for double counting.

Third, there is minimal short-term concern for double counting in the demand forecasting/procurement processes as the CEC's approach and recommendations for additional data collection and analysis infer it will not immediately adjust its demand forecasting process.[4] This allows the energy commissions, Program Administrators, and stakeholders to further assess the market and potential for double counting based on experience in the field through the HOPPs programs and the new policies put forth in the PD.

Last, the current assessment of potential double counting opportunity is highly uncertain, as indicated by Navigant in their initial analysis. In particular they note; "…it's

[3] Proposed Decision, Table 1, p.45
[4] *Staff White Paper on Energy Efficiency Baselines for Implementation of Assembly Bill 802*, April 27, 2016; CEC Analysis, pp.43 & 53

important to note that the double counted savings in this **preliminary analysis** is likely overestimated while the incrementally new savings from AB802 is likely underestimated."[5]

Thus, while there may be additional potential for double counting in the future if more programs are eligible to count below savings, it is not extensive at this time. Instead we urge the Commission to implement a more targeted approach to addressing this issue and work with the CEC and stakeholders to further tease out savings allocations to ensure sufficient data and understanding of methodologies to inform future policy.

2. *The ESPI is insufficient to motivate utilities*

The presumption presented in the Proposed Decision is that earning a return on the expenditures for codes and standards advocacy would sufficiently motivate utilities to maintain their extensive codes and standards efforts. NRDC does not believe this will be the case. The ESPI award provides a 12% management fee for codes and standards expenditures.[6] The amount of funding invested in codes and standards is a small fraction of total portfolio expenditures, providing insufficient motivation to encourage the utilities to prioritize this highly impactful work. For example, as noted above, in 2016 the expenditures for codes and standards represent approximately 2% of energy efficiency expenditures. Assuming a $1 billion aggregate efficiency budget, the current ESPI incentive of 12% on expenditures would result in about $2.5 million in ESPI earnings total statewide.[7]

In addition, removing credit for codes and standards will likely return us to a time when voluntary programs were at odds with codes and standards effort. Given the choice, utilities across the country opt to invest in voluntary programs that help reach their goals instead of investing in advancing codes and standards that remove savings opportunities that they could capture with voluntary programs. We urge the commission to maintain the current fundamental C&S policy, adjusted with our recommendation below to address double counting.

[5] Navigant, *AB 802 Technical Analysis Potential Savings Analysis*, March 31, 2016, prepared for the CPUC. p.8
[6] CPUC, *Shareholder Incentive Mechanism,* http://www.cpuc.ca.gov/General.aspx?id=4137
[7] 2.2%*$1,000,000,000 = $22,000,000*.12 = $2,640,000.

3. Solutions to address the potential for double counting

As noted above, NRDC recommends the following actions to address the immediate problem of double counting without undermining utility motivation to continue advancing codes and standards:

- *Remove savings associated only with the identified retrofit programs that can count below code savings from C&S advocacy credit, potential, and goals*: Any savings associated with pay for performance programs, programs with randomized control trial, and shell & building system add-on equipment should be removed from credit given to the utilities.
- *Allow codes and standards advocacy credit, potential, and goals for new construction and standards*: While there may be some potential for double counting due to certain downstream programs involved with upgrading buildings, there is no potential for double counting standards, such as white goods, battery chargers, electronics, etc.. Similarly, new construction addresses an entirely different set of buildings than existing building retrofits. The biggest concern for double counting is with the older building stock that is substantially below code, making it more difficult to motivate customers to take action. Therefore, we strongly urge the Commission to include new construction code savings and standards in the potential and goal setting process.
- *Work with the CEC to improve data collection and undergo a review of the C&S attribution methodology to improve approach to estimating retrofit credit:* Additional information would be helpful to further understand the relationship between existing building retrofits and codes and standards advocacy effort as well as program participant and non-participant benefits. Also, given the increased focus on upgrading existing building to code, the Commission, with the CEC and stakeholders, should undergo a review of the current attribution methodology to identify improvements that can be made to more accurately assess the allocation of savings.
- *Encourage code readiness programs to help reduce the potential gap between expected code savings and actual savings moving forward:* To ensure the problem of stranded savings does not continue into the future, the Commission should encourage code readiness programs that specifically address the challenge of ever increasingly stringent codes.

B. Any new CCAs or RENs planning to submit a business plan to run energy efficiency programs should go through the CAEECC process like the other Program Administrators.

NRDC recommends the PD be modified to ensure that any entity submitting business plans on January 15, 2017 is required to go through the California Energy Efficiency

Coordinating Committee (CAEECC) process per Decision 15-10-028.[8] Proposed additional language is provided in underline.

> "Marin Clean Energy shall coordinate with other energy efficiency program administrators and file its business plans on January 15, 2017. Any other community choice aggregator or new regional energy network proposing a business plan shall also do so on January 15, 2017 after going through the Coordinating Committee pursuant to D.15-10-028." (OP, 2)

C. NRDC reiterates its recommendation for a comprehensive review of the evaluation, measurement, and verification (EM&V) framework.

In our comments, NRDC recommended a comprehensive review of the existing EM&V framework given the recent significant expansion of scope and objectives and the fact that it has been in place for over a decade. As the PD acknowledges, this proposal received strong support from a number of parties, including CEEIC, PG&E, SCE, and NAESCO.[9]

The PD declines to adopt this proposal on the basis that "commenters have not clearly specified the shortcomings or issues they see in the current framework that would necessitate a wholesale reevaluation and/or what additional issues or dimensions require more attention."[10] The problem with this justification is that the point of a comprehensive review is precisely to identity issues or shortcomings that need attention. NRDC, and other parties, have raised issues with the EM&V framework multiple times in the past (e.g., unclear how the final evaluation estimates influences future program design as the final numbers often change post-final public review). Instead of repeating previous comments, NRDC suggested that the Commission launch an independent review to assess the current process. The goal would be to identify key areas that would benefit from improvements and offer recommendations, if needed, based on that assessment. Rejecting NRDC's proposal for a comprehensive review of EM&V because the key problems have yet to be identified is a Catch-22. We cannot conduct a comprehensive review

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[8] D.15-10-028, p.73. "Scope of Work: i. Provide input into development of business plans *prior to and throughout the drafting process* (see notes below re scope of input and timing); ii. Provide input into development of implementation plans, again, *prior to and throughout the drafting process*; iii. Provide input into development of annual budget advice letters, again, *prior to and throughout the drafting process*; and, iv. Provide input into development and revision of metrics for inclusion in business plans and implementation plans as part of i and ii.."

[9] PD, p. 66

[10] *Id.*

because the issues have not been identified. Yet we cannot identify the most critical issues to address because we have not conducted the independent review.

NRDC urges the Commission to revise the PD to adopt NRDC's proposal for a comprehensive review of the EM&V framework, which would be useful and timely given the expansion in programmatic scope and the long time period that the framework has been in place. In addition, the proposal is supported by a broad array of parties and could provide important insight and recommendations on how to address evaluation given AB 802 efforts and improve upon this critical component of the Commission's efficiency programs.

D. NRDC supports increased collaboration around evaluation, measurement, and verification and urges the Commission to ensure the various evaluation meetings and subgroups are open to interested stakeholders.

The PD highlights the value of collaborative efforts on EM&V priority setting, planning and implementation.[11] The PD also highlights the staff recommendation in support of collaborative processes for EM&V.[12] We strongly agree with the proposed reliance on collaborative processes. The CAEECC and CalTF provide timely examples of the opportunities for progress through collaboration.

The current approach to EM&V studies could benefit from increased transparency and opportunity for input from stakeholders. Generally, stakeholders are provided an opportunity to comment on the broad evaluation strategy documents which are compiled every couple of years. The strategy documents include a large number of relatively open-ended study plans, which typically include reference to a broad range of potential study scopes and methodologies. While the general scope and plan is often presented on a public webinar, the development of a detailed study plan, management of the study, and preparation of a draft report are all conducted under the auspices of a study review group (e.g., Project Coordinating Groups or similar) from which stakeholders are excluded. At present, only staff, consultants, and utilities are allowed to participate in study review groups. As a result, following adoption of the open-ended study plan, the next opportunity for input from outside stakeholders is in response to a draft-final report with a two-week comment period. At that point all of the key decisions have been made, the study has been implemented, and the possibility for significant changes is limited at best.

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[11] PD, p.68
[12] PD, p.72

Allowing stakeholders to participate would improve the transparency, quality, and support for study results. We concur with the direction to staff in the PD to modify their EM&V approaches to be as inclusive as possible and recommend that staff allow stakeholders to participate in EM&V study groups that oversee development of a detailed study plan and study implementation. In addition, if the Commission were to include EM&V as part of the CAEECC process, or connected to the CAEECC process in the future, we request the scope per D.15-10-028 be updated as it explicitly states that stakeholders could not claim intervenor compensation for EM&V discussions that occurred as part of the CAEECC.[13]

III. Conclusion

NRDC appreciates the discussion of evolving the current approach to aid in the scaling up of efficiency savings to meet our state's climate and energy goals and looks forward to working with staff and stakeholders to develop solutions to identified issues.

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Respectfully submitted,

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[13] D.15-10-028, p.73